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	Examiner Name	Daniel L. Greene	
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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: DARLING

Application Serial No.: 10/016,289

Filing Date: October 31, 2001

For: COMPUTERIZED INTERFACE FOR
PROVIDING, EDITING AND
ACCESSING CONTENT

) Group Art Unit: 3621

) Examiner: Daniel L. Greene

) **APPEAL BRIEF (third Appeal Brief filed
) herein) in Response to Office Action
) mailed November 29, 2005**

) Attorney Docket No.: G08.058

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Edith Martin

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Sir:

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner in the Office Action mailed November 29, 2005 (the "Office Action"), rejecting claims 16-24.

REAL PARTY IN INTEREST

The present application is assigned to GOLDMAN, SACHS & CO., 85 Broad Street, New York, New York 10004, U.S.A.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellants, Appellants' legal representative, or assignee, which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 16-24 are pending in this application. All pending claims stand rejected and are now being appealed.

Claims 1-15 have previously been canceled.

STATUS OF AMENDMENTS

No amendments are pending.

SUMMARY OF CLAIMED SUBJECT MATTER

In certain environments, such as the financial industry, it may be necessary for a large organization to rapidly generate a large number of documents to be disseminated via a number of different outlets, such as websites, e-mail, alert channels that reach recipients who have previously elected to receive information on particular topics, and branded content issued in the name of a recognized authority or resource. (Specification, page 9, lines 1-10; page 2, lines 10-16) The documents may be created by any one of a number of different people in the organization, and may need to receive one or more levels of editing and review before being released. (Specification, page 4, lines 6-12; page 2, line 22 to page 3, line 3)

The present invention is concerned with a networked computer system which streamlines document creation and automates routing of documents for review within the system. (FIG. 5; specification page 12, line 22 to page 13, line 2; page 4, line 12 to page 5, line 8) Content creators (authors of documents) are allowed to log into the system and are allowed to select a template that is specific to a particular type of document to be created by the content creator. (Specification, page 15, lines 10-17) The content creator creates a draft by using the template. (Specification, page 16, lines 4-5; page 17, lines 15-16) At least one reviewer or editor for the draft is selected, at least partly on the basis of the template used by the content creator. The draft created by the content creator is then transmitted within the system to the selected reviewer or editor. (Specification, page 17, lines 16-20; page 18, line 22 to page 19, line 5; FIGS. 6 and 8) Tags may be applied to drafts to further control routing and tracking of the drafts. (Specification, page 16, lines 5-8 and 12-16)

Thus, with the reviewer or editor being determined on the basis of the template used to create the document, rules for review of the document are automatically enforced, and routing of the document for review occurs with a minimum of action on the part of the content creator.

Appellants will next set forth the corresponding acts described in the specification for each of the step plus function limitations of the claims that are separately argued herein.

Claim 16

“Allowing a content creator to log into a system”—specification, page 15, line 10 (Creator logs into the system).

“Providing a content type specific template to the content creator”—specification, page 15, line 18 to page 16, line 5 (Creator accesses the Template).

“Allowing the content creator to create a draft by using the content type specific template”—specification, page 16, lines 4-5 and page 17, lines 15-16 (Creator adds content to template and saves draft).

“Selecting at least one of a reviewer and an editor from among a plurality of reviewers and editors accessible via the system...based at least in part on the content type specific template”—specification, page 17, lines 16-19 (appropriate Recipient determined by template, which in turn is controlled by the Content Type).

“Transmitting the draft to an inbox of the selected at least one of a reviewer and an editor”—specification, page 17, lines 19-22 (system places content into an Inbox of the appropriate recipient).

Claim 20 (dependent on claim 16, also argued separately)

“Applying a tag to the draft”—specification, page 16, lines 5-16 (content is automatically tagged).

“selecting the at least one of a reviewer and an editor...based at least in part on the tag applied to the draft” —specification, page 16, lines 5-16 (tags used to disseminate content as it proceeds through the system).

Claim 21

This is an independent method claim. Every functional step recited in claim 21 is also contained either in claim 16 or claim 20. Accordingly, this honorable Board is respectfully referred to the above discussion of claims 16 and 20 for the identification of the corresponding acts described in the specification.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 16-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Plantz (U.S. Patent No. 6,088,702).¹

ARGUMENT

I. Applicable Law

All of the issues in this appeal are related to rejections under 35 U.S.C. § 103(a). The law governing application of 35 U.S.C. § 103(a) is set forth in general terms as follows in *In re Kotzab*, 217 F.3d 1365 (Fed.Cir. 2000):

¹ The Examiner also stated a separate rejection under § 103(a) of claim 18, which is dependent on claim 16 and for the purposes of this Brief is intended to stand or fall with claim 16. The separate rejection of claim 18 relies on a combination of Plantz with two secondary references, Dabney (U.S. Patent No. 6,643,663) and Bernardo (U.S. Patent No. 6,308,188). The secondary references do not appear to raise any issue with respect to the patentability of claim 16, were not cited by the Examiner against claim 16, and accordingly will not be discussed in this Brief.

A claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art [citing § 103(a)].

Moreover, as noted in the MPEP at § 2143.03, “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” [Citing *In re Royka*, 490 F.2d 981 (CCPA 1974)].

II. Brief procedural history of this application

Before turning to specific errors in the rejections now appealed from, appellants will first briefly summarize certain aspects of the twisted sequence of events that has led to the present appeal.

On March 31, 2004, a Final Office Action was issued, rejecting the claims (in not very different form than now presented) as anticipated by or unpatentable over the self-same Plantz reference that is at issue in the present appeal. When arguments submitted after final rejection proved to be of no avail, appellants appealed for the first time herein, and submitted an Appeal Brief dated September 9, 2004 in which arguments were made to distinguish the claims from Plantz.

The Examiner responded to the Appeal Brief of Sept. 2004 by issuing a nonfinal Office Action stating a new ground of rejection in reliance on the Balderrama reference.² The rejections based on Plantz were dropped.

After an Amendment in which appellants made minor clarifying amendments to the claims, another Final Office Action followed, restating the rejection based on Balderrama. Appellants then appealed for the second time, and filed an Appeal Brief dated June 28, 2005, including arguments to distinguish the claims from Balderrama.

In response to the second Appeal Brief, the Examiner dropped the rejection based on Balderrama, and reopened prosecution with the Office Action dated November 29, 2005, now appealed from. As a purportedly “new” ground of rejection, the Examiner reverted to the Plantz

² U.S. Patent No. 5,806,071; not at issue in the present appeal.

reference that was distinguished (successfully, the appellants once believed) in the Sept. 2004 Appeal Brief. Although the Examiner now refers to different passages in Plantz from those he cited in 2004, it will be recognized from the ensuing discussion that the Examiner has by no means found anything new or notably more relevant in the reference. The Examiner's reliance on Plantz is as flawed as the position that he previously abandoned more than a year ago.

Appellants will now proceed with a summary of the disclosure of the Plantz reference.

III. General Description of the Plantz reference

Plantz describes a computer-based system which allows the efforts of a number of different contributing authors to be efficiently combined into a single document which encompasses a plurality of different topics. (Column 7, lines 12-16; column 8, lines 37-39; column 8, line 52 to column 9, line 2) Authors and editors may be assigned to topics by a system administrator. (Column 11, lines 11-13, 29-31 and 37-39) There is no description in Plantz of any manner of assigning editors to topics other than by manual input from the administrators.

Portions of the document may be reviewed and approved by various experts and editors (column 9, lines 58-63; column 10, lines 50-56), but the reference does not disclose how experts are assigned to review sections of the document. The specific type of document illustrated as an example in the reference is a medical text covering various medical conditions as separate topics. (FIGS. 7 and 10; Column 9, lines 58-67)

IV. Claim 16 is not obvious in view of the Plantz reference

Claim 16 is an independent method claim. In the invention recited in claim 16, a content creator is allowed to log into a system, and is provided with a content type specific template. The content type specific template is associated with a particular content type of a plurality of

content types.³ The content creator is allowed to create a draft by using the content type specific template.

Claim 16 further recites, in a key step, that at least one of a reviewer and an editor is selected from among a plurality of reviewers and editors accessible via the system, with the selection of reviewer or editor being based at least in part on the content type specific template. Claim 16 also specifies that the selected reviewer or editor is a user of the system (i.e., an individual human being).

Finally, in accordance with claim 16, the draft is transmitted to an inbox of the selected reviewer/editor.

As pointed out below, even in his second attempt to read claim 16 on Plantz, the Examiner has failed to find in the reference any teaching of the salient point of novelty, namely selecting a reviewer or editor for a document based at least in part on the template used to create the document. It is believed that this difference is clearly unobvious and renders claim 16 patentable over the Plantz reference.

Having pointed out an unobvious difference between the method of claim 16 and the Plantz reference, appellants will now turn to the Examiner's treatment of the corresponding feature of claim 16.

As indicated in the Office Action at page 3, lines 12-14, the Examiner appears to rely on a passage at column 8, lines 20-35⁴ in the Plantz reference as allegedly showing the feature of selecting a reviewer or editor based on the template used to create a document. However, this passage completely fails to teach or suggest such a feature.

The passage cited by the Examiner describes users of Plantz's system, such as authors or editors, accessing documents for which they have been authorized to have access. The

³ As is made clear at page 15, lines 10-17 of the specification, each content type specific template is suitable for creating a different type of document. Examples of the different types of documents (and thus of the different types of templates) are listed at the top of page 9 of the specification as: (a) website documents, (b) email, (c) alerts (sent to end users who have opted to receive news about specific securities, and (d) branded content (e.g., information sent from a recognized authority).

⁴ To attempt to give himself some wiggle room, the Examiner cites this passage with the preamble phrase "for example". However, by now Appellants have had ample opportunity to study the Plantz reference and do not believe any passage thereof provides support for the Examiner's purported finding of this claim feature in the reference. If the Examiner does not again elect to drop his rejection based on Plantz, he is now specifically challenged to cite in the Examiner's Answer any and all other passages in the reference that he believes support his position in regard to this claim feature. (Appellants fervently hope that the Examiner will not cite passages previously "shot down" in the Sept. 2004 Appeal Brief.)

authorization is described to occur by the project manager communicating to the users usernames and passwords in person, by telephone, by fax, by postal mail, or by e-mail.

Arguably this passage is related to the subject of assigning of editors to particular documents, but the passage strongly implies that such assignment is performed manually by the project manager. The passage does not in any way teach or suggest selection of the editor based on a template used to create the document. The passage simply does not support the Examiner's reliance thereon. Moreover, as to this salient point of novelty of claim 16, the balance of the reference is also silent.

Having missed the main point of claim 16--selection of editor or reviewer based on template--the Examiner compounds his mistake by asserting that the claimed invention differs from Plantz's disclosure only in that Plantz does not "specifically us[e] the term template". The Examiner then goes on to state that Plantz's control form 160 functions as a template. This is not only irrelevant, in that the reference fails to teach or suggest selecting an editor based on which control form (only one is shown in the reference) is used⁵, but is also simply incorrect. The control form 160 shown in Plantz is not a template.

As noted in the present application at page 16, lines 3-4, and in accordance with the generally understood meaning of "template", a template provides a format for a document to be created using the template. Plantz's control form 160, as described at column 9, lines 38-67 of the reference, does not provide formatting for a document, and hence does not function as a template. Rather the control form 160 provides information relevant to managing a document, such as the topic covered by the document, the names of the author and editor, links to the e-mail addresses of the author and editor, links to provide access to various portions of the document, and other information relevant to managing the document. Item 160 is just what the reference says it is--a control form, not a template.

In any case, even if the control form were to be considered a template, the editor for the related document is not selected based on the control form. Rather, the identity of the editor is previously selected (apparently manually by the project manager) as data to be inserted into the appropriate field (item 164, FIG. 2) of the control form 160.

For the above reasons, appellants respectfully request that the rejection of claim 16 be reversed. Claims 17-20 are dependent on claim 16 and should be held patentable on the same

⁵ The Examiner does not even contend that the control form 160 is used as a basis for selection of an editor.

basis as claim 16. Also, there are separate grounds of patentability for at least one of the dependent claims, as argued separately below.

V. Separate Argument in Support of Claim 20

Claim 20 is dependent on claim 16 and adds the limitations of applying a tag to the draft document and basing the selection of the reviewer or editor at least in part on the tag applied to the draft document.

In discussing claim 20, the Examiner first apparently conceded that the Plantz reference fails to teach the limitations added by claim 20.⁶ The Examiner then goes on to refer to the following elements in the disclosure of Plantz: (a) element 150 shown in FIG. 2 and labeled “Access to Document”, (b) element 190 shown in FIG. 3 and also labeled “Access to Document”, and (c) the “Control Center” shown in FIG. 12. The Examiner then went on to state his finding of obviousness as follows:

It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of tagging the template that requires authoring/editing because the skilled artisan would have recognized that this business practice of identifying/tagging a document/template requiring modifications provides for control of the template generation process and is clearly applicable to applying a tag to the draft, and wherein the selecting the at least one of a reviewer and an editor is based at least in part on the tag applied to the draft. These advantages are well known to those skilled in the art.⁷

In regard to this remarkably non-substantive treatment of claim 20, appellants will first note that the cited portions of Plantz have nothing to do with either adding tags to a draft or selecting a reviewer or editor for a draft. Elements 150 and 190, both labeled “Access to Document”, appear to have been provided to allow a user to navigate to a document that is of interest, and do not suggest tagging in any way. The “Control Center” of FIG. 12 is for use by the overall administrator of the system and also has no bearing on either adding tags to

⁶ To quote the Examiner directly: “Plantz teaches all of the elements claimed with the exception of applying a tag to the draft, and wherein the selecting the at least one of a reviewer and an editor is based at least in part on the tag applied to the draft.” (Page 5 of the Office Action, first paragraph; emphasis added.)

⁷ Page 5 of the Office Action, second paragraph.

documents or selecting an individual to review or edit a document, except perhaps by manual assignment (item 317), and not based on a tag applied to the document.

As for the Examiner's explanation of the alleged obviousness of claim 20, appellants strongly contend that the Examiner has not even begun to state a *prima facie* case of obviousness. Without any reference to the prior art, the Examiner has drawn from thin air a feature--applying tags to document--to be added as a modification to Plantz's system. For motivation or suggestion that such a modification be made, the Examiner's explanation similarly is presented completely naked of any support in the prior art. Still further, in the way the Examiner merely quotes by rote the key feature of claim 20--"and wherein the selecting the at least one of a reviewer and an editor is based at least in part on the tag applied to the draft", without any reference to teachings in the prior art, it appears that the Examiner has not even given any consideration to this claim limitation.

Finally, appellants respectfully submit that construction of a *prima facie* case of obviousness on the part of the Examiner requires more than a general conclusory statement that "[t]hese advantages are well known to those skilled in the art." Where is the evidence to support this conclusion? Is the Examiner to be permitted to merely wave away claim limitations as "well known" without setting forth any basis for his finding? Appellants urge that sound patent examination procedures require much more from the Examiner than he has provided in his treatment of claim 20.

Moreover, if one steps back from the empty words put forth by the Examiner and considers claim 20 in comparison with the Plantz reference as a whole, claim 20 is not obvious in view of the reference. As noted above, Plantz generally refers to assigning editors to topics, but suggests no more than manual input by an administrator as a technique for accomplishing such assignment. Thus the reference fails to teach or suggest that a reviewer or editor of a draft be selected based at least in part on a tag applied to the draft.

For all of the reasons stated above, it is respectfully submitted that even if claim 16 were not found to be patentable, independent grounds of patentability exist for claim 20. The rejection of claim 20 should be dismissed.

VI. Claims 21-24 are not obvious in view of the Plantz reference

Claim 21 is taken as exemplary of claims 21-24.

Claim 21 is an independent method claim. In the invention recited in claim 21, a content creator is allowed to log into a system and is allowed to create a draft in the system. A tag is applied to the draft, and a reviewer or editor for the draft is selected based at least in part on the tag applied to the draft.⁸ The draft is then transmitted to the selected reviewer/editor.

The Examiner handled claim 21 in substantially the same manner as claim 20. Indeed, the rejection of claim 21 tracks essentially word-for-word with the rejection of claim 20. Therefore, appellants will now respectfully refer this Honorable Board to the discussion of claim 20 which is provided immediately above. It goes without saying that appellants believe that the vaporous nature of this rejection has been thoroughly demonstrated.

Appellants therefore contend that claim 21, viewed as a whole, is unobvious when compared with the Plantz reference taken as a whole.

(Since claim 20 includes the distinguishing feature of claim 21, claim 20 should be held patentable if claim 21 is held patentable.)

CONCLUSION

The rejection of claims 16-24 is improper at least because all of those claims recite limitations that simply are not taught or suggested by the Plantz reference.

As required by 37 CFR §41.37(a)(1), this Brief is filed within two months from the date of mailing of Appellants' Notice of Appeal (*i.e.*, within two months of December 7, 2005); as such, no extension of time is believed due. However, if any additional fees are due in conjunction with this matter, the Commissioner is hereby authorized to charge them to Deposit Account 50-1852. An Appendix of claims involved in this appeal is attached hereto.

⁸ Like claim 16, claim 21 specifies that the selected reviewer or editor is a user of the system, *i.e.*, an individual human being.

If any issues remain, or if the Examiner or the Board has any further suggestions for expediting allowance of the present application, kindly contact the undersigned using the information provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nathaniel Levin', written over a horizontal line.

Nathaniel Levin
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February 6, 2006
Date

Attachment: Appendix of claims

APPENDIX A--CLAIMS

1-15. (canceled)

16. A method comprising:

allowing a content creator to log into a system;

providing a content type specific template to the content creator, the content type specific template being associated with a particular content type of a plurality of content types supported by the system;

allowing the content creator to create a draft by using the content type specific template;

selecting at least one of a reviewer and an editor from among a plurality of reviewers and editors accessible via the system, the selecting based at least in part on the content type specific template, the selected at least one of a reviewer and an editor being a user of the system; and

transmitting the draft to an inbox of the selected at least one of a reviewer and an editor.

17. A method according to claim 16, further comprising:

allowing the content creator to select the content type specific template from among a plurality of content type specific templates supported by the system.

18. A method according to claim 17, wherein the plurality of content type specific templates includes a first template suitable for creating a website document, a second template suitable for creating an e-mail, a third template suitable for creating an alert, and a fourth template suitable for creating branded content.

19. A method according to claim 16, further comprising:
allowing the selected at least one of a reviewer and an editor to review the transmitted draft.
20. A method according to claim 16, further comprising:
applying a tag to the draft;
wherein the selecting the at least one of a reviewer and an editor is based at least in part on the tag applied to the draft.
21. A method comprising:
allowing a content creator to log into a system;
allowing the content creator to create a draft in the system;
applying a tag to the draft;
selecting at least one of a reviewer and an editor from among a plurality of reviewers and editors accessible via the system, the selecting based at least in part on the tag applied to the draft, the selected at least one of a reviewer and an editor being a user of the system; and
transmitting the draft to an inbox of the selected at least one of a reviewer and an editor.
22. A method according to claim 21, wherein the system automatically applies the tag to the draft.
23. A method according to claim 21, wherein the content creator applies the tag to the draft.

24. A method according to claim 21, further comprising:

allowing the selected at least one of a reviewer and an editor to review the transmitted draft.

APPENDIX B - EVIDENCE

No evidence is being submitted with this Appeal Brief (*i.e.*, this appendix is empty).

APPENDIX C - RELATED PROCEEDINGS

No prior or pending appeals, interferences, or judicial proceedings are known to Applicants, Applicants' legal representative, or assignee, which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal. Therefore, there are no copies of decisions rendered by a court or the Board to attach (*i.e.*, this appendix is empty).